



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,994	09/12/2003	Douglas W. Reitz	F8-6068 (9460-0001)	9335
69275	7590	10/30/2007		
COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER, LT 200 WEST ADAMS STREET SUITE 2850 CHICAGO, IL 60606			EXAMINER LITHGOW, THOMAS M	
			ART UNIT 1797	PAPER NUMBER
			MAIL DATE 10/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/661,994

Applicant(s)

REITZ ET AL.

Examiner

Thomas M. Lithgow

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-14,16,17,19-22,48-53,55-59 and 65 is/are pending in the application.
- 4a) Of the above claim(s) 56-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,6-14,16,17,19-22,48-53,55 and 65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

THOMAS M. LITHGOW
PRIMARY EXAMINER
GROUP 1700

DETAILED ACTION

Applicant should note that claim 49 should be listed as (currently amended) as its status identifier and not (previously presented). In order to expedite prosecution rule 37 CFR 1.121 is waived for the above. Action on the merits is as follows.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 53 and 55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Both of these claims depend from a canceled claim (54). Claims 53 and 55 will be treated as dependent from claim 49.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1797

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 49, 50-52, 55 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenberg (US 4326957). Rosenberg '957 discloses a floe-through device (filter) having two sidewalls 2, 3, a peripheral wall 5,6 where the sidewalls meet, and a removal medium (filter sheet 10). Further, Rosenberg '957 discloses the use of any one of ultrasonic bonding, heat-fusion bonding, solvent bonding or adhesive bonding of the two housing portions 2,3 as well as the peripheral edge of the filter media [col. 9, lines 40-60]. The "injectable sealant" reads on the adhesive part of adhesive bonding. The term "injectable" does not add any limitation other than the capability of being injected.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19-10, 13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg '957 as applied to claim 1 and

further in view of Meyst (US 4157967). Although Rosenberg employs a tongue and groove arrangement as recited in claim 2 he fails to include the "shoulder of the groove initially contacts the tongue" limitation. Meyst '967 discloses this is a preferred technique employed to bond opposed tongue and groove housing portions of a flow-through filter device (see fig. 2-4, especially fig. 4) and col. 5, lines 37-45. To so include such a feature in the bonding of Rosenberg '957 housing portions would have been obvious to one of ordinary skill in the art.

6. Claims 6-8, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg '957 in view of Meyst '967 as applied to claim 1 above, and further in view of Zuk (US 5938940). The use of a multiple layer media (one is a removal media and the other is a filter) in a flow-through filter device is taught by Zuk '940 (see elements 3-6). Multiple layers are advantageous when filtering a complex fluid like whole blood. To so modify Rosenberg '957 with such a feature would have been obvious to one of ordinary skill in the art.

7. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg '957 as applied to claim 49 above, and

further in view of O'Leary (US 3905905). The use of an epoxy adhesive to secure opposed housing sections of a flow through filter device is taught by O'Leary '905 [col. 5, line 6]. To employ this particular adhesive as the adhesive in Rosenberg '957 would have been obvious to one of ordinary skill in the art.

8. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg '957 as applied to claim 49 above, and further in view of Mohiuddin (US 6364864). The use of a disk of sintered polymer in a flow through filter device is well known and taught by Mohiuddin '864. To so employ this particular filter in Rosenberg '957 would have been obvious to one of ordinary skill in the art at the time of the invention.

9. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg '957 in view of Meyst '967 as applied to claims 13 and 1 above, and further in view of Sinko (US 4453927). The use of radial ribs as taught by Sinko '927 (figs 2-3) instead of parallel ribs as taught by Rosenberg '957 would still achieve the intended benefit of supporting the filter and allowing sufficient flow at the same time. To substitute one equivalent pattern for another pattern would have been obvious to one of ordinary skill in the art.

10. Claims 19-21 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg '957 as applied to claim 49 above, and further in view of Hammer (US 4009714). Hammer '714 discloses a "flow-through" device having a housing 10, 11 bonded to each other [col. 3, lines 21+] to form a unit housing for holding a filter 14. Hammer '714 employs inlet and outlet conduits 12 and 13, which appear to be formed with the housing sections 10, 11. The inlet to the housing is noted to be at 15 and the outlet at 16, which is above and diametrically opposite the inlet 15. This arrangement assists in removing air from the unit as it is primed by the initial liquid flow thus preventing future gas lock conditions. To so modify the inlet/outlet arrangement of Rosenberg '957 would have been obvious to one of ordinary skill in the art.

11. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 19 above, and further in view of Hei (PGP 2001/0009756). Hei '756 discloses the use of plural stage filter device having three nested filters 3-5 (see fig. 14) mounted in a fluid filter device which has opposed sealed housing portions and at least one of the stages is a sorbent in a binder as recited in claim 22. To so modify Rosenberg '957 with the taught

features of Hei '756 would have been obvious to one of ordinary skill at the time of the invention who seeks to remove the specific compounds disclosed in Hei '756 from the blood prior to reinjecting the blood back into the patient by employing the specific filter media of a sorbent with a plastic binder.

12. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg '957 as applied to claim 49 above, and further in view of either one of Markley (US3864265) or Lobdell (US 4163721). Rosenberg '957 already teaches the use of an adhesive to bond his housing portions [8, 50+ and 9,44+]. Either one of Markley '265 or Lobdell '721 disclose preforming the filter device and then injecting the sealant via an injection ports. To include an injection port for an adhesive/sealant would have been obvious in view of the prior art's recognition of employing injection ports for assembly adhesives.

Response to Arguments

13. Applicant's arguments with respect to all of the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

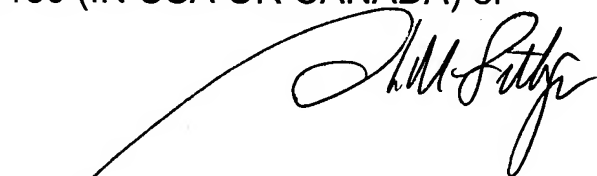
14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Lithgow whose telephone number is 571-272-1162. The examiner can normally be reached on Mon. -Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thomas M. Lithgow
Primary Examiner
Art Unit 1797